

#13-25

**AN ORDINANCE VACATING A PORTION OF ARLINGTON AVENUE LOCATED IN THE TOWNSHIP OF NORTH BRUNSWICK, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY AND CONVEYING SUCH VACATED LANDS TO THE ADJACENT PROPERTY OWNERS**

**WHEREAS**, a portion of Arlington Avenue is an unimproved, paper street located in the Township of North Brunswick, Middlesex County, New Jersey; and

**WHEREAS**, Koyal Realty, LLC is the owner ("Owner") of property known as, and Block 4.45 Lots 14-22, and Block 4.41 Lots 37-41 on the Official Tax Map of the Township of North Brunswick, Middlesex County, New Jersey and these properties are adjacent to Arlington Avenue on the west side (collectively, the "West Side Property"); and

**WHEREAS**, Koyal Realty, LLC is the owner ("Owner") of property known as, and Block 75 Lots 1-4 and 6-9, and Block 76 Lots 1-5 on the Official Tax Map of the Township of North Brunswick, Middlesex County, New Jersey and these properties are adjacent to Arlington Avenue on the east side (collectively, the "East Side Property"); and

**WHEREAS**, the Owner has requested that the Township of North Brunswick vacate a portion of Arlington Avenue (as more fully described on a metes and bounds description attached hereto and made a part hereof as Exhibit "A"), so that the Owner's properties may be expanded and the Owner may seek site plan approval for possible improvements upon the expanded West Side and East Side Properties; and

**WHEREAS**, N.J.S.A. 40:67-1(b) authorizes the governing body of every municipality to adopt an ordinance to vacate any public street or any part thereof; and

**WHEREAS**, pursuant to N.J.S.A. 40:67-19, a municipality may vacate a public street where there has been a dedication of lands as a public street and same has not been accepted by the municipality and it shall appear to the governing body of the municipality that the public interest will be better served by releasing those lands or a part thereof from such dedication and the lands or part thereof released from the dedication shall be effectively discharged therefrom as though the dedication had not taken place; and

**WHEREAS**, pursuant to N.J.S.A. 40:49-6, a municipality must publish ordinances authorizing vacations or dedications of land in the manner required by N.J.S.A. 40:49-2, except that every such ordinance, after being introduced and having passed a first reading, shall be published at least once not less than ten (10) days instead of one week prior to the time fixed for further consideration for final passage, and, at least one week prior to the time fixed for final passage, a copy of such ordinance, together with a notice of the introduction thereof and the time and place when and where the ordinance shall be considered for final passage shall be mailed to every person whose lands may be affected by the ordinance; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12-5, a municipality has the power to acquire or sell any real property for a public purpose through negotiated agreement; and

**WHEREAS**, the Township Council of the Township of North Brunswick has determined that it would fulfill a public purpose to vacate a portion of Arlington Avenue (as more fully described in Exhibit "A" attached hereto and made a part hereof) as same is not needed nor used as a public street, and to convey the vacated lands to the Owner in accordance with law.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of North Brunswick, County of Middlesex and State of New Jersey that Arlington Avenue, as more fully described in the attached Exhibit "A" be and is hereby vacated; and

**BE IT FURTHER ORDAINED**, that the vacated lands formerly comprising Arlington Avenue are to be conveyed to the adjacent property owner, Koyal Realty, LLC, in accordance with law; and

**BE IT FURTHER ORDAINED**, that the Mayor and Township Clerk are hereby authorized and directed to execute any documents which may be required to convey the aforesaid vacated lands; and

**BE IT FURTHER ORDAINED**, that the Township of North Brunswick, pursuant to the provisions of N.J.S.A. 40:67-1(b), hereby expressly reserves and excepts from vacation all rights and privileges currently possessed by public utilities (as defined in N.J.S.A. 48:2-13) and by any cable television company (as defined in the Cable Television Act, N.J.S.A. 48:5-1 et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, or any part thereof, to be vacated; and